

California Regional Water Quality Control Board
Santa Ana Region

January 19, 2001

ITEM:

SUBJECT: Cease and Desist Order No. 01-5 for Inland Empire Utilities Agency's Regional Plant No. 2 (RP-2).

DISCUSSION:

The Inland Empire Utilities Agency (IEUA) operates Regional Plant No. 2 (RP-2). RP-2 is a municipal wastewater treatment plant located on the northwest corner of El Prado Road and Pine Avenue, at 16400 El Prado Road in the Chino area of San Bernardino County. RP-2 currently discharges 4.8 mgd of tertiary treated wastewater to Reach 1 of Chino Creek. This discharge is currently regulated by Order No. 01-2, NPDES No. CA0105287, adopted by the Board on January 19, 2001.

In 1992 and 1993, the discharge from RP-2 was regulated under Order No. 92-20 (NPDES No. CA0105287) and during these years, portions of the RP-2 site were inundated by the flooding of Chino Creek, resulting in discharges to Chino Creek of raw and partially treated sewage and polluted storm water. These discharges caused or threatened to cause a condition of pollution, contamination, or nuisance and violated the requirements of Order No. 92-20.

In response to these violations, the Executive Officer issued Time Schedule Order (TSO) No. 93-24 on March 5, 1993, requiring IEUA to develop and implement both short and long term flood management plans for RP-2, in accordance with specified schedules. IEUA subsequently implemented a short term flood management plan sufficient to protect the site from flooding due to storm events with a return frequency of once in 18 years. IEUA proposed to relocate the liquid treatment processes of RP-2 to another location not subject to flooding as the long term flood control plan required by TSO No. 93-24. However, IEUA did not provide the detailed plan and schedule for the relocation project, as required by the TSO, despite repeated requests by Board staff to do so. Accordingly, on December 8, 1994, the Board adopted Cease and Desist Order (CDO) No. 94-74, requiring IEUA to:

1. Provide flood protection for the RP-2 facilities by December 1, 2003 by relocating the liquid treatment facilities at RP-2 to a site not subject to flooding.
2. Properly operate and maintain the interim flood control facilities and fully implement IEUA's interim flood control plan.

CDO No. 94-74 also included a finding that the Regional Board does not intend to pursue enforcement activities against IEUA for violations of discharge requirements caused by flooding of the RP-2 site that results from precipitation events greater than the 18-year precipitation event or from flooding in the Prado Flood Control Basin (wherein RP-2 lies) above an elevation of 537.5¹. This finding recognized the practical considerations related to providing flood control protection for the facility, the short term flood protection measures already implemented by IEUA, and IEUA's commitment to address long term flood protection in a reasonable and timely manner.

The conditions and requirements that are stipulated in a CDO become invalid whenever the waste discharge requirements for which the CDO was issued are rescinded. On May 1, 1995, Order No. 92-20 expired and was replaced by Order No. 95-48. Consequently, CDO 94-74 was replaced by CDO No. 95-57 to continue the same requirements that were stipulated in CDO 94-74. On January 19, 2001, the Regional Board rescinded Order No. 95-48 and replaced it with Order No. 01-2. Therefore, in order to continue the requirements that were stipulated in CDO No. 94-74 and CDO No. 95-57, it is necessary to replace CDO No. 95-57 with an effective enforcement order.

Tentative CDO No. 01-5 incorporates the same requirements and schedules specified in CDO No. 95-57. CDO No. 01-5 also includes the finding specified in CDO No. 94-74 (and described above) regarding the Board's intent with respect to enforcement of violations due to flooding under specified circumstances.

RECOMMENDATION.

Adopt Order No. 01-5 as presented.

Comments were solicited from the following agencies:

U.S. Environmental Protection Agency, Permits Issuance Section (WTR-5) - Terry Oda
U.S. Army District, Los Angeles, Corps of Engineers, Regulatory Branch
U.S. Fish and Wildlife Service - Carlsbad
State Water Resources Control Board, Office of the Chief Counsel - Ted Cobb
State Water Resources Control Board, Division of Water Quality - James Kassel
State Department of Water Resources - Glendale
State Department of Fish and Game - Long Beach
Orange County Water District - Nira Yamachika
San Bernardino County Department of Public Works, Environmental Management Division
- Jim Borcuk
San Bernardino County Environmental Health Services - Scott Maass
City of Chino - City Manager

¹ The reference datum line is mean sea level.

City of Chino Hills - City Manager
City of Chino - Brett Hulstrom
Santa Ana Watershed Project Authority - Joseph Grindstaff
Santa Ana River Dischargers Association - Gail McPherson
Orange County Coastkeeper
Lawyers for Clean Water C/c San Francisco Baykeeper

California Regional Water Quality Control Board
Santa Ana Region

CEASE AND DESIST ORDER No. 01-5

for the
Inland Empire Utilities Agency's
Regional Plant No. 2
San Bernardino County

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Regional Board), finds that:

1. The Inland Empire Utilities Agency (IEUA) operates Regional Plant No. 2 (RP-2). RP-2 is a municipal wastewater treatment plant located on the northwest corner of El Prado Road and Pine Avenue, at 16400 El Prado Road in the Chino area of San Bernardino County. RP-2 currently discharges 4.8 million gallons per day (mgd) of tertiary treated wastewater to Reach 1 of Chino Creek. This discharge was previously regulated by waste discharge requirements, Order No. 95-48, National Pollutant Discharge Elimination System (NPDES) No. CA0105287.
2. During February 1992 and January 1993, storm events which were estimated to have a return frequency of 18 and 13 years respectively, caused the flooding of Chino Creek and subsequent inundation of portions of the RP-2 site. The flooding of the RP-2 site caused raw sewage, partially treated sewage, and polluted storm water to be discharged to Chino Creek. This discharge violated Discharge Specifications A.2 and A.9 of Order No. 92-20² and caused or threatened to cause a condition of pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code.
3. In response to the violations cited in Finding 2 above, the Board directed the Executive Officer to issue Time Schedule Order (TSO) No. 93-24 on March 5, 1993. TSO No. 93-24 required IEUA to develop and implement both short and long term flood management plans for RP-2, in accordance with specified schedules.
4. IEUA did not fully comply with the requirements of TSO No. 93-24. Accordingly, on December 8, 1994, the Regional Board adopted Cease and Desist Order (CDO) No. 94-74. CDO No. 94-74 required IEUA to cease and desist from discharging and threatening to discharge raw sewage, partially treated sewage, and polluted storm water in violation of Order No. 92-20 by December 1, 2003.
5. IEUA proposed to relocate the liquid treatment processes of RP-2 to another location not subject to flooding as the long term flood control plan. The Regional Board found this proposal acceptable. CDO No. 94-74 required the submittal of a detailed plan and schedule for the relocation project. IEUA submitted this plan and schedule on March 3, 1995.

²

During 1992 and 1993, Order No. 92-20 regulated the discharge from RP-2.

6. Order No. 92-20 was replaced by Order No. 95-58 and correspondingly, CDO No. 94-74 was replaced by CDO No. 95-57 to continue the long term requirements that were stipulated in CDO No. 94-74.
7. Currently, plans and specifications for a wastewater treatment plant that will replace RP-2 are complete and construction commenced on October 2000. The discharger is complying with the long term requirements stipulated in CDO No. 95-57.
8. On January 19, 2001, the Regional Board adopted Order No. 01-2 renewing waste discharge requirements for IEUA RP-2. The same requirements that were previously the basis for adopting a cease and desist order for threatened discharge of raw and partially treated sewage including polluted storm water are also stipulated in Order No. 01-2.
9. IEUA has not yet provided long term flood protection for RP-2 and therefore continues to threaten to discharge raw or partially treated sewage and polluted storm water to surface waters and to threaten to create a condition of pollution, contamination, or nuisance. IEUA thus continues to threaten to violate its waste discharge requirements, now specified in Discharge Specification A.2 and Storm Water Requirements C.1.b. of Order No. 01-2.
10. Upon adoption of Order No. 01-2, Order No. 95-48 was rescinded and CDO No. 95-57 was invalidated. It is therefore necessary to replace CDO No. 95-57 with an effective enforcement order. CDO No. 01-5 is intended to replace CDO No. 95-57.
11. The Board does not intend to pursue discretionary enforcement activities against IEUA for violations of Order No. 01-2 caused by the flooding³ of RP-2 provided that IEUA is in full compliance with this Order.
12. The Board has notified IEUA and interested parties of its intent to adopt this cease and desist order.
13. The Board, at a public hearing held on January 19, 2001, received evidence and considered all relevant information pertaining to this Order.
14. This enforcement action is being taken for the protection of the environment and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with Section 15321, Article 19, Division 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, in accordance with Section 13301 of the California Water Code:

³

Flooding resulting from a precipitation event greater than the 18-year precipitation event or from flooding in the Prado Flood Control Basin above an elevation of 537.50 [datum line mean sea level (MSL)].

1. IEUA shall cease discharging, and threatening to discharge, raw and partially treated sewage and polluted storm water in violation of Discharge Specifications No. A.2 and Storm Water Requirement C.1.b. of Order No. 01-2 by December 1, 2003, in accordance with the time schedule specified below.

| <u>TASK</u> | <u>COMPLIANCE DATE</u> | <u>REPORT OF COMPLIANCE</u> |
|--|------------------------|-----------------------------|
| Complete construction of facilities necessary to protect RP-2 from flooding and provide full compliance with Order No. 01-2. | December 1, 2003 | January 15, 2004 |

2. IEUA shall submit quarterly progress reports discussing actions that were completed during the previous quarter and the status of all actions proposed in the detailed plan required in Part 1 of this Order. The first of the quarterly reports shall be submitted by April 1, 2001 and reports shall be submitted quarterly thereafter until full compliance is achieved.
3. The plan and time schedule (see Finding No. 5. , above) shall be a part of this Order and any violations of the time schedule will be considered a violation of this Order. The Executive Officer may adjust the time schedule, with the exception of the final compliance date of December 1, 2003, for verifiable and unforeseen delays beyond the control of IEUA.
4. IEUA shall properly implement, maintain, and operate all interim flood control facilities and measures, outlined in IEUA's June 2, 1993 Final Comprehensive Facility Flood Management Plan, until full compliance with this Order is achieved.
5. If, in the opinion of the Executive Officer, IEUA fails to comply with any part of this Order, the Executive Officer is directed to issue a complaint assessing administrative civil liability or to request that the Attorney General take judicial enforcement action against IEUA, including an injunction and civil monetary remedies, if appropriate, pursuant to Sections 13331, 13350, 13385, 13386, and/or 13387 of the California Water Code.
6. Cease and Desist Order No. 95-57 is hereby rescinded.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on January 19, 2001.

Gerard J. Thibeault
Executive Officer